

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

AMERICAN GUARANTEE AND  
LIABILITY INSURANCE COMPANY,

Plaintiff,

-v-

ALAN P. ROSEFIELDE,

Defendant.

FILED

DEC 14 2007

USDC WP SDNY

Case No.

ECF CASE

Rule 7.1 Statement

JUDGE LYNCH

'07 CIV 11273

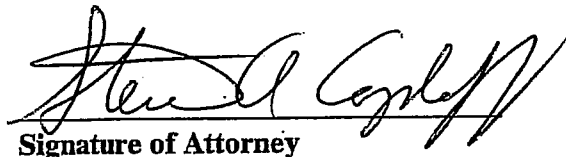
Pursuant to Federal Rule of Civil Procedure 7.1 [formerly Local General Rule 1.9] and to enable District Judges and Magistrate Judges of the Court to evaluate possible disqualification or recusal, the undersigned counsel for plaintiff

American Guarantee and Liability Insurance Company (a private non-governmental party)

certifies that the following are corporate parents, affiliates and/or subsidiaries of said party, which are publicly held.

SEE ATTACHED

Date: December 14, 2007

  
Signature of Attorney

Attorney Bar Code: SC 0506

## AMERICAN GUARANTEE AND LIABILITY INSURANCE COMPANY

## BALANCE SHEET

## ADMITTED ASSETS (\$000)

	12/31/04	12/31/03	'04%	'03%
Bonds	9,080	13,704	58.3	94.2
Cash & short-term invest	518	208	3.3	1.4
Other non-affili inv asset	1	1	0.0	0.0
Total invested assets	9,599	13,913	61.6	95.6
Premium balances	161	161	1.0	1.1
Accrued interest	145	208	0.9	1.4
All other assets	5,671	272	36.4	1.9
Total assets	15,576	14,555	100.0	100.0

## LIABILITIES &amp; SURPLUS (\$000)

	12/31/04	12/31/03	'04%	'03%
Loss & LAE reserves	2,179	510	14.0	3.5
Unearned premiums	179	284	1.2	2.0
All other liabilities	1,913	658	12.3	4.5
Total liabilities	4,272	1,452	27.4	10.0
Capital & assigned surplus	4,000	4,000	25.7	27.5
Unassigned surplus	7,304	9,102	46.9	62.5
Total policyholders' surplus	11,304	13,102	72.6	90.0
Total liabilities & surplus	15,576	14,555	100.0	100.0

## SUMMARY OF 2004 OPERATIONS (\$000)

	12/31/04	Funds Provided from Operations	12/31/04
Statement of Income	3,830	Premiums collected	4,377
Premiums earned	6,011	Benefit & loss related pmts	7,990
Losses incurred	564	Net transfers to accounts	...
LAE incurred	1,339	LAE & undrw expenses paid	1,893
Undrw expenses incurred	-4,084	Undrw cash flow	-5,506
Net underwriting income	695	Investment income	759
Net investment income	0	Other income/expense	0
Other income/expense	-3,388	Pre-tax cash operations	-4,746
Pre-tax oper income	323	Income taxes pd (recov)	690
Realized capital gains	-1,256	Net oper cash flow	-5,436
Income taxes incurred	-1,809		
Net income			

Zurich Financial Services Group  
AMERICAN GUARANTEE AND LIABILITY INSURANCE COMPANYNew York, NY  
1400 American Lane, Schaumburg, IL 60196-1056

Web: www.zurichna.com

Tel: 847-605-6000  
AMB#: 02562  
FEIN#: 36-6071400Fax: 847-605-6011  
NAIC#: 26247

## BEST'S RATING

Based on our opinion of the consolidated Financial Strength of the property/casualty members of Zurich Financial Services Group, which operate under a group structure, each group member is assigned a Best's Rating of A (Excellent). The company is assigned the Financial Size Category of Class XV, which is the Financial Size Category of the group. Refer to the Preface for a complete explanation of Best's Rating system and procedure.

## RATING RATIONALE

For a detailed discussion of the rating rationale, refer to the report of Zurich Financial Services Group.

Best's Rating: A g

Outlook: Stable

## FIVE YEAR RATING HISTORY

Rating as of July 22, 2005: A g

Date	Best's Rating	Date	Best's Rating
09/14/04	A g	09/06/02	A gu
06/10/04	A g	03/22/02	A+ g
09/03/03	A g	09/27/01	A+ gu
05/30/03	A g	11/17/00	A+ g
12/18/02	A g		

## KEY FINANCIAL INDICATORS (\$000)

Period Ending	Statutory Data			Total Admitted Assets	Policyholders' Surplus
	Direct Premiums Written	Net Premiums Written	Pretax Operating Income		
2000	447,902	...	7,802	146,532	146,399
2001	724,331	...	8,262	151,153	150,655
2002	1,008,748	...	7,913	88,403	87,662
2003	1,231,899	...	3,785	93,987	93,729
2004	1,312,783	...	4,306	213,770	128,140

Period Ending	Profitability			Leverage		Liquidity	
	Comb. Ratio	Inv. Yield (%)	Pretax ROR (%)	NA Lev	NPW to PHS	Overall Liq. (%)	Oper. Cash-flow (%)
2000	...	5.3	...	4.5	...	999.9	732.8
2001	...	5.5	...	3.5	...	999.9	...
2002	...	6.9	...	6.9	...	999.9	...
2003	...	4.3	...	6.7	...	999.9	...
2004	...	3.9	...	5.3	...	249.6	152.9
5-Yr	...	5.2	0.0	...	...	...	...

(\*) Data reflected within all tables of this report has been compiled from the company-filed statutory statement. Within several financial tables of this report, this company is compared against the Commercial Casualty Composite.

## BUSINESS REVIEW

For a detailed discussion of business review, refer to the report of Zurich U.S.

Affiliations: American Insurance Association; Insurance Services Office, National Council on Compensation Insurance and Surety Association of America.

## 2004 BUSINESS PRODUCTION AND PROFITABILITY (\$000)

Product Line	Premiums Written		% of Total NPW	Pure Loss Ratio	Loss & LAE Res.
	Direct	Net			
Fire	115,842	...	...	...	...
Com'l MultiPeril	34,301	...	...	...	...
Workers' Comp	104,708	...	...	...	...
Oth Liab Cl-Made	149,212	...	...	...	...
Comm'l Auto Liab	53,020	...	...	...	...
Prod Liab Occur	140,402	...	...	...	...
Oth Liab Occur	533,020	...	...	...	...
Allied Lines	121,187	...	...	...	...
All Other	61,091	...	...	...	...
Totals	1,312,783	...	...	...	...

Major 2004 Direct Premium Writings by State (\$000): California, \$157,760 (12.0%); Texas, \$137,499 (10.5%); New York, \$95,046 (7.2%); New Jersey, \$83,406 (6.4%); Connecticut, \$75,548 (5.8%); Florida, \$74,949 (5.7%); 45 other jurisdictions, \$685,407 (52.2%); Aggregate Alien, \$3,167 (0.2%).

## CAPITALIZATION

For a detailed discussion of capitalization, refer to the report of Zurich U.S.

## CAPITAL GENERATION ANALYSIS (\$000)

Period Ending	Source of Surplus Growth			Change in PHS	PHS Growth (%)
	Pretax Operating Income	Total Inv. Gains	Net Contrib. Capital		
2000	7,802	55	...	24	7,881
2001	8,262	-3,958	...	-49	4,256
2002	7,913	4,835	-74,998	-743	-62,993
2003	3,785	1,717	...	565	6,067
2004	4,306	1,065	30,000	-961	34,411
5-Yr	32,069	3,713	-44,998	-1,163	-10,379

## HISTORY

This company was organized under the laws of New York as an affiliate of the United States Branch of the Zurich Insurance Company. It commenced business on September 6, 1939.

The Zurich Fire Insurance Company of New York, a former member of the Zurich Group, was merged into the company at the close of business on December 31, 1952.

Administrative offices were moved in early 1980 from Chicago to Schaumburg, Illinois.

Capital stock of \$5,000,027 consists of 6,636 common shares at \$753.47 par value each. All authorized shares are outstanding.

The company is a member of the Zurich U.S. pool.

To view a company's complete BEST'S COMPANY REPORT, refer to BEST'S INSURANCE REPORTS on CD-ROM, or go online at www.ambest.com/blr

**AMERICAN GUARANTY INSURANCE COMPANY****MANAGEMENT**

The company is owned by Zurich American Insurance Company. Zurich American is owned by Zurich Holding Company of America, Inc. which is, in turn, owned by the Zurich Financial Services Group.

All of the outstanding capital stock passed to Zurich American Insurance Company in December, 1998 (as a surplus contribution) from its parent, Zurich Holding Company of America, Inc. Prior to October 31, 1981, direct stock ownership had resided with the former U.S. Branch of Zurich Insurance Company, Switzerland.

The management of this company also directs the affairs of Zurich American Insurance Company.

**Officers:** Chief Executive Officer, Axel Lehmann; President, Thomas A. Bradley; Executive Vice President and Secretary, David A. Bowers; Executive Vice President and Treasurer, David A. Levinson; Executive Vice Presidents, E. Randall Clouser, J. Peter Connors; James D. Engel, Robert M. Fishman, Craig J. Fundum, Donna L. Galer, Donna L. Galer, Barry J. Gilway, Donald J. Huzeler, John A. Kelm, Michael D. Markman, Nancy D. Mueller, Frank A. Patalano, Steve Rand, David J. Saul, Raymond C. Thomas, Dianne Whidden.

**Directors:** David A. Bowers, Thomas A. Bradley, James D. Engel, Donna L. Galer, Barry J. Gilway, Donald J. Huzeler, John A. Kelm, Axel Lehmann (Chairman), James W. March, Michael D. Markman, Nancy D. Mueller, Juliet G. Nash, Frank A. Patalano.

**REGULATORY**

An examination of the financial condition is being made as of December 31, 2003 by the Insurance Department of New York. An annual independent audit of the company is conducted by PricewaterhouseCoopers, LLP. An annual evaluation of reserves for unpaid losses and loss adjustment expenses is made by Nancy D. Mueller, Executive Vice President.

**Territory:** The company is licensed in the District of Columbia and all states.

**REINSURANCE PROGRAMS**

For a detailed discussion of reinsurance, refer to the report of Zurich U.S.

**BALANCE SHEET****ADMITTED ASSETS (\$000)**

	12/31/04	12/31/03	'04%	'03%
Bonds	121,468	83,075	56.8	88.4
Cash & short-term invest	89	3,005	0.0	3.2
Other non-affil inv asset	6,727	6,293	3.1	6.7
Investments in affiliates	1	1	0.0	0.0
Total invested assets	128,285	92,375	60.0	98.3
Premium balances	361		-0.3	
Accrued interest	992	757	0.5	0.8
All other assets	85,053	855	39.8	0.9
Total assets	213,770	93,987	100.0	100.0

**LIABILITIES & SURPLUS (\$000)**

	12/31/04	12/31/03	'04%	'03%
All other liabilities	85,630	258	40.1	0.3
Total liabilities	85,630	258	40.1	0.3
Capital & assigned surplus	177,270	147,270	82.9	156.7
Unassigned surplus	49,131	53,541	23.0	57.0
Total policyholders' surplus	128,140	93,729	59.9	99.7
Total liabilities & surplus	213,770	93,987	100.0	100.0

**SUMMARY OF 2004 OPERATIONS (\$000)**

	12/31/04	Funds Provided from Operations	12/31/04
Statement of Income			
Premiums earned		Premiums collected	84,964
Losses incurred		Benefit & loss related pmts	58,650
Net underwriting income		Undrw cash flow	26,314
Net investment income	4,306	Investment income	4,737
Pre-tax oper income	4,306	Pre-tax cash operations	31,051
Realized capital gains	277		
Income taxes incurred	13	Income taxes pd (recov)	
Net income	4,570	Net oper cash flow	31,051

**AMERICAN GUARANTY INSURANCE COMPANY**

343 Six Forks Road, Suite 300, Raleigh, NC 27609

Mail: P.O. Box 18747, Raleigh, NC 27619

Tel: 919-716-7573

Fax: 919-716-7031

AMB#: 08130

NAIC#: 35521

FEIN#: 56-1174907

**BEST'S RATING**

Based on our opinion of the company's Financial Strength, it is assigned a Best's Rating of B++ (Very Good). The company's Financial Size Category is Class IV. Refer to the Preface for a complete explanation of Best's Rating system and procedure.

**RATING RATIONALE**

**Rating Rationale:** The rating reflects the company's low underwriting leverage, strong operating profitability, sound balance sheet and the support of its parent, First Citizens Bancshares, Inc., which provides financial support as well as marketing opportunities. These positive factors are partially offset by the company's product concentration as a dedicated personal auto writer in North Carolina that subjects it to competitive and regulatory market pressures.

Prior to 2002, underwriting results were distorted due to an insignificant level of premium volume that resulted in an elevated expense position. Since that time the company increased writings, causing the expense position to fall in line with its industry composite. This, in conjunction with favorable loss experience, resulted in combined and operating ratios that compared favorably with the industry composite. This favorable loss experience was offset slightly by the significant premium growth in 2002 and 2003. Furthermore, with the exception of calendar/accident year 2002, the company experienced favorable loss reserve development patterns in each of the last five years.

Best's Rating: B++

Outlook: Stable

**FIVE YEAR RATING HISTORY**

Rating as of July 22, 2005: B++

Date	Best's Rating	Date	Best's Rating
09/09/04	B++	06/11/02	NR-1
03/23/04	NR-2	06/13/01	NR-1
06/05/03	NR-2	06/22/00	NR-1

**KEY FINANCIAL INDICATORS (\$000)**

Statutory Data							
Period Ending	Direct Premiums Written	Net Premiums Written	Pretax Operating Income	Net Income	Total Admitted Assets	Policyholders' Surplus	
2000	400	400	369	252	8,201	7,933	
2001	358	358	239	159	8,261	8,105	
2002	4,948	2,511	141	20	10,180	8,206	
2003	7,913	3,607	238	165	10,116	8,363	
2004	5,628	2,255	63	46	9,657	8,364	
Profitability							
Period Ending	Comb. Ratio	Inv. Yield (%)	Pretax ROR (%)	NA Inv. Lev	NPW to PHS	Net Lev	Overall Liq
2000	134.8	5.7	86.8	0.6	0.1	0.1	999.9
2001	163.5	5.2	66.5	0.4	0.0	0.1	999.9
2002	95.5	4.3	8.2	0.4	0.3	0.5	515.7
2003	99.4	2.5	6.4	0.2	0.4	0.6	577.7
2004	104.7	1.5	2.6	0.2	0.3	0.4	747.1
5-Yr	103.8	3.9	12.1	...	...	...	...

(\* Data reflected within all tables of this report has been compiled from the company's filed statutory statement. Within several financial tables of this report, this company is compared against the Professional Non-standard Auto Writers.

**BUSINESS REVIEW**

American Guaranty Insurance Company specializes in providing non-standard private passenger automobile insurance coverage. The company's products are distributed through an independent agency network of approximately 200 agents throughout the state of North Carolina. The company also offers inland marine and credit insurance.

During 2000, American Guaranty became a wholly-owned subsidiary of First Citizens Bancshares, Inc. a publicly-traded bank holding company. This was a result of the additional revenue generating opportunities provided to banks by the Gramm-Leach-Bliley Act adopted by congress during 1999.

**ZURICH FINANCIAL SERVICES GRP**

**Centre Insurance Company**

**Centre Solutions U.S. Group**

**ZC Specialty Insurance Company**

**Zurich U.S.**

**American Guarantee & Liab Ins**

**American Zurich Insurance Co**

**Assurance Company of America**

**Colonial American Cas & Surety**

**Empire Fire & Marine Ins Co**

**Empire Indemnity Ins Co**

**Fidelity and Deposit Co of MD**

**Maine Bonding & Casualty Co**

**Maryland Casualty Company**

**Maryland Insurance Company**

**National Standard Ins Co**

**Northern Insurance Co of NY**

**Steadfast Insurance Company**

**Universal Underwriters Ins Co**

**Universal Underwriters of TX**

**Vallant Insurance Company**

**Zurich American Insurance Co**

**Zurich American Ins Co of IL**